

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS**

JUSTIN ANDERSON,

Petitioner

v.

No. 5:12-cv-279

WENDY KELLEY, Director,
Arkansas Department of Correction,

Respondent

PROTECTIVE ORDER

Petitioner has complied with the Court's prior Order (ECF No. 78) by providing Respondent the files of his trial, appellate, and state post-conviction counsel (the "Produced Materials"). The Court now enters this Protective Order, which shall govern the use of the Produced Materials as follows:

1) The Produced Materials shall be maintained as confidential. Only Respondent herself and representatives of the Arkansas Attorney General's Office may access them. Respondent and her representatives may disclose and use the materials to interview those attorneys and other individuals responsible for the contents of the file, but shall not disclose the Produced Materials or their contents to any other person or entity, including other law-enforcement or prosecutorial agencies. Any information gained as a result of interviews with members of Mr. Anderson's trial, resentencing, and state

post-conviction defense team is protected by this Order to the same extent as the Produced Materials.

2) The Produced Materials shall be used only in case no. 5:12-cv-279 to litigate the issues to be tried at the February 2016 hearing (namely, whether Petitioner's counsel was ineffective for failing to develop allegations related to mental illness, brain damage, childhood trauma, and the neurobiological limitations of young people). This paragraph permits Respondent to use the materials in any appeal from the judgment in case no. 5:12-cv-279 and in certiorari proceedings from the appeal of the judgment in case no. 5:12-cv-279. Respondent is prohibited from using the materials for any other purpose or in any other proceeding without an order from the Court stating otherwise. In accordance with this restriction, the State shall not use the Produced Materials or any material derived from the Produced Materials against the Petitioner in the event that he is granted a retrial of any portion of his case.

3) Any part of the Produced Materials to be included with a court filing or to be submitted as an exhibit at the hearing or otherwise shall be filed under seal.

4) If the Produced Materials are inadvertently disclosed to persons or entities outside the Arkansas Attorney General's Office, Respondent shall

immediately inform Petitioner of the circumstances of the inadvertent disclosure and of steps taken to recover the materials at issue.

5) This Protective Order shall continue in force beyond the conclusion of this litigation unless modified or vacated by the Court.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

21 December 2015